

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CARNEGIE INSTITUTION OF WASHINGTON,

M7D CORPORATION,

Plaintiffs,

v.

FENIX DIAMONDS LLC,

Defendant.

Civil Action No. 1:20-cv-00200-JSR

**DECLARATION OF MATTHEW J. MOFFA IN SUPPORT OF
PLAINTIFFS' MOTION TO DISMISS**

I, MATTHEW J. MOFFA, do declare and state as follows:

I am an attorney at Perkins Coie LLP licensed to practice law in the State of New York and counsel for plaintiffs Carnegie Institution of Washington and M7D Corporation (collectively, "Plaintiffs") in the present action. I make this Declaration based on my personal knowledge and in support of *Plaintiffs' Motion to Dismiss*.

1. Attached as Exhibit 1 is a true and correct copy of an email from Terrence Wikberg dated November 17, 2020.

2. Attached as Exhibit 2 is a true and correct copy of an email from Terrence Wikberg dated June 21, 2021.

3. Attached as Exhibit 3 is a true and correct copy of excerpts of Fenix's First Supplemented Preliminary Invalidity Contentions Under Local Patent Rule 7 dated May 26, 2020.

4. Attached as Exhibit 4 is a true and correct copy of excerpts of the Expert Report of J. Michael Pinneo, Ph.D., Regarding Invalidity of U.S. Patent Nos. RE41,189 and 6,858,078 dated

September 18, 2020. Counsel for Defendant Fenix Diamonds LLC has authorized the filing of these excerpts from Dr. Pinneo's report on the public docket notwithstanding the designation of the report as Highly Confidential on its cover.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 1, 2021

By: /s/ Matthew J. Moffa
Matthew J. Moffa